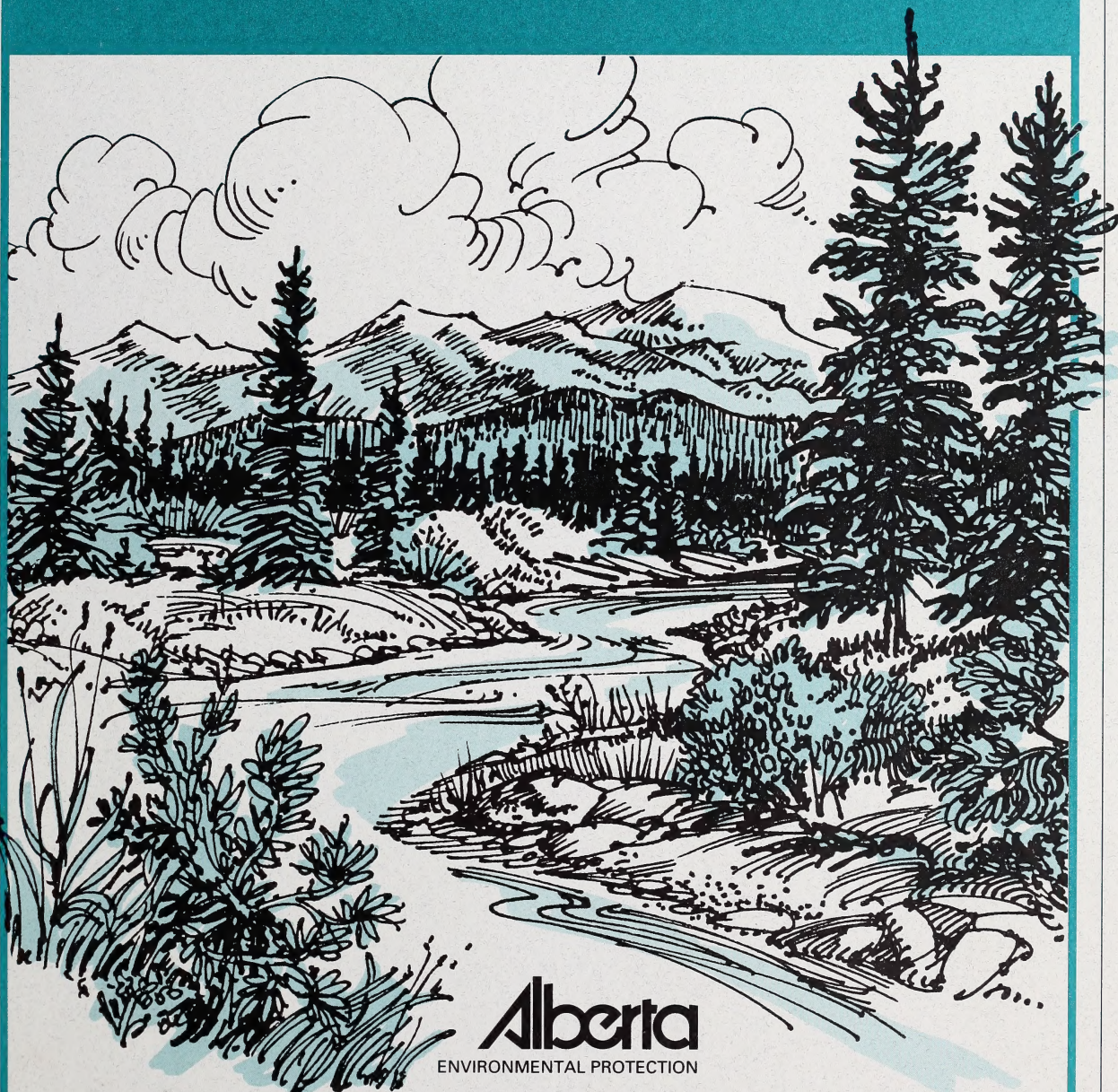


A GUIDE TO THE

Environmental Protection and Enhancement Act

CANADIANA

AUG 24 1993



Alberta

ENVIRONMENTAL PROTECTION

The purpose of this Act is to support and promote the protection, enhancement and wise use of the environment while recognizing the following:

- ❖ the protection of the environment is essential to the integrity of ecosystems and human health and to the well-being of society;
- ❖ the need for Alberta's economic growth and prosperity in an environmentally responsible manner and the need to integrate environmental protection and economic decisions in the earliest stages of planning;
- ❖ the principle of sustainable development, which ensures that the use of resources and the environment today does not impair prospects for their use by future generations;
- ❖ the importance of preventing and mitigating the environmental impact of development and of government policies, programs and decisions;
- ❖ the need for Government leadership in areas of environmental research, technology and protection standards;
- ❖ the shared responsibility of all Alberta citizens for ensuring the protection, enhancement and wise use of the environment through individual actions;
- ❖ the opportunities made available through this Act for citizens to provide advice on decisions affecting the environment;
- ❖ the responsibility to work co-operatively with other provinces and the Government of Canada to prevent and minimize transboundary environmental impacts;
- ❖ the responsibility of polluters to pay for the costs of their actions;
- ❖ the important role of comprehensive and responsive action in administering this Act.



HIGHLIGHTS OF THE ACT

- ❖ increases public participation in decisions affecting environmental protection and enhancement
- ❖ increases public access to information on the environment
- ❖ establishes a legislated Environmental Assessment Process
- ❖ allows for the creation of an integrated, one-window approval process that recognizes the interdependence between air, land and water
- ❖ allows the development of market-based approaches, such as tradeable emission permits and recycling incentives, for achieving environmental protection goals
- ❖ requires the reporting and cleaning up of spills
- ❖ includes provisions for cleaning up contaminated sites
- ❖ provides a wide range of measures to ensure the timely and effective enforcement of environmental regulations
- ❖ provides penalties of up to \$1 million in fines and two years in jail for environmental offences
- ❖ exposes corporate officers and directors and public officials to liability for environmental offences

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This booklet is not the law. It is a summary of the Environmental Protection and Enhancement Act published for guidance only. For more detailed information, consult the Act and regulations or contact Alberta Environmental Protection.

HOW TO USE THIS GUIDE

This is a general guide to the new Alberta Environmental Protection and Enhancement Act. It gives a broad yet concise overview of the new legislation, with an emphasis on how the legislation will affect Albertans.

Why read this guide? The Act provides the legal foundation for protecting and enhancing our environment now and into the next century. The legislation also enables the public to take an active role in shaping decisions that affect our environment. For that reason alone, this guide can help Albertans become informed and encourage them to get involved.

The Environmental Protection and Enhancement Act is a legal framework, which in one streamlined document replaces and amends nine existing acts. More detailed laws, known as regulations, provide the substance within that framework.

This guide has been organized to provide, first, a summary of some of the Act's key principles and then a more detailed look at its provisions. The 12 sections that form the bulk of this guide are numbered to correspond with the 12 major parts of the Act itself.

For those seeking more detail, this guide can serve as a handy companion to the legal wording of the published Act. Factsheets, providing more detailed information on important sections of the Act and the regulations, will also be available from Alberta Environmental Protection. A list of key contacts is also provided in a factsheet.

Copies of the Act and regulations are available from the Queen's Printer Bookstore:

11510 Kingsway Avenue
Edmonton, Alberta
T5G 2Y5
Telephone: (403) 427 - 4952
FAX: 452 - 0668

Main Floor, McDougall Centre
455 6 Street S.W.
Calgary, Alberta
T2P 4E8
Telephone: (403) 297 - 6251
FAX: 297 - 8450

The following eight Acts have been replaced by the new environmental legislation:

- ❖ Agricultural Chemicals Act
- ❖ Beverage Container Act
- ❖ Clean Air Act
- ❖ Clean Water Act
- ❖ Ground Water Development Act
- ❖ Hazardous Chemicals Act
- ❖ Land Surface Conservation and Reclamation Act
- ❖ Litter Act

The Department of the Environment Act has been amended.



GLOSSARY OF KEY WORDS

Act

An act is a law passed by the elected members of the Legislative Assembly and given Royal Assent. An act will take effect either on Royal Assent, on a future date named in the Act or on a date to be determined later, described by the words “on proclamation”.

Activity

This is a term which is defined in the Act and is important as it identifies what is governed by provisions in the Act. A list of activities is found at the end of the Act, under the Schedule of Activities. Often specific activities are referred to as “projects”. The word project is sometimes used in this guide.

Adverse Effect

This is a term which is defined in the Act as meaning “impairment of or damage to the environment, human health or safety or property”.

Bill

A bill is a proposed law. In order for a bill to become an act, it must pass three readings by elected members of the Legislative Assembly and receive Royal Assent.

Director

This is a term defined under the Act. It is important because, while the Minister has responsibility for overall administration of the Act, Directors make specified decisions. A Director is an employee of the department who has been designated as such by the Minister. In practice, because of the importance of the decisions that are being made, the individuals designated will generally be senior level employees.

Environment

This term has been defined very broadly under the Act to mean “the components of the earth and includes

- (i) air, land and water,
- (ii) all layers of the atmosphere,
- (iii) all organic and inorganic matter and living organisms, and
- (iv) the interacting natural systems that include components referred to in subclauses (i) to (iii).”

Objectives and Guidelines

Objectives and guidelines provide further detail on specific procedures and other matters related to provisions in an act and regulations. They do not have the force of law unless they are specifically referred to.

Regulations

Regulations are detailed laws which provide specifics on the general powers listed in an act. Enabling powers within an act will set out what types of regulations may be enacted either by the Lieutenant Governor in Council or by the Minister.

A NEW ENVIRONMENT ACT FOR ALBERTANS

Since its creation in 1971, Alberta Environmental Protection has been responsible for a broad body of environmental legislation. That legislation served Alberta well during a period of rapid economic growth. Now a new regulatory framework, incorporating and building upon previous legislation, is needed to accommodate the public's desire to be more directly involved in decisions affecting the environment. Such a framework is also needed to better reflect the province's commitment to sustainable development.

Following extensive public consultation, the Environmental Protection and Enhancement Act became law on June 26, 1992, coming into force on September 1, 1993. It creates this new framework in a single act that takes an integrated approach to the protection of air, land and water. The Act strengthens and clarifies Alberta's environmental laws, while eliminating duplication among existing acts. In one streamlined package, the Act consolidates the following acts: the Agricultural Chemicals Act, Beverage Container Act, Clean Air Act, Clean Water Act, Ground Water Development Act, Hazardous Chemicals Act, Land Surface Conservation and Reclamation Act, Litter Act and some sections of the Department of the Environment Act.

One of the Act's cornerstones is the guarantee of public participation in decisions affecting the environment. This public involvement includes increased access to information, participation in the Environmental Assessment and Approval Processes and the right, when directly affected, to appeal certain decisions.

Under the new legislation, those who operate or propose developments will be subject to firm but fair requirements that clearly spell out their environmental responsibilities. The Act establishes a legislated process for environmental assessments. This will ensure that potential environmental impacts are identified early in the planning process.

At the same time, project proponents will benefit from an integrated, one-window approval process. For example, a company that previously required a number of separate approvals under different Acts will now submit one comprehensive application to Alberta Environmental Protection. A designated Director will then coordinate the preparation of a single, integrated approval for the project.

INTRODUCTION

This approval process acts as an early warning system by identifying and preventing potential problems before a project proceeds. As a further safeguard, approval conditions will detail specific operating requirements that projects must meet. Regular inspections and monitoring will ensure projects comply with stringent environmental standards during and after their operation. Those that do not will be subject to enforcement action, which could include penalties of up to \$1 million in fines and two years in jail.

PUBLIC INVOLVEMENT

PUBLIC INVOLVEMENT

The Environmental Protection and Enhancement Act provides Albertans with the opportunity to understand and provide advice on decisions affecting our environment. Key areas of public involvement are outlined below.

Environmental Assessment Process

There are opportunities for public involvement throughout the Environmental Assessment Process. These include:

- ❖ providing public notice when a proposed project is being screened and when an Environmental Impact Assessment (EIA) report is required
- ❖ allowing for public input on proposed projects and into the terms of reference of EIA reports
- ❖ ensuring information, including screening and EIA reports, is made publicly available through a central registry

Approval Process

There are opportunities for public involvement throughout the Approval Process. These include:

- ❖ providing public notice of applications for approvals or notices of decisions on applications for approvals
- ❖ allowing for members of the public who may be directly affected by a proposed project to submit written statements of concern about applications for approvals

Access to Information

The legislation lists the environmental information that Albertans have access to, including information submitted for environmental assessments and approvals. A wide range of information will be made available to the public, including annual state of the environment reports, advisory committee reports and environmental quality information. The Act provides for confidentiality where a party's interests may be harmed by disclosing sensitive business information.

To promote environmental awareness, Alberta Environmental Protection will continue to maintain an environmental library, open to the public, and, in cooperation with others, will publish and distribute educational information.

Enforcement

The Act allows the public to become involved in environmental enforcement. Alberta Environmental Protection takes all reports from the public of possible contraventions of the Act seriously and investigates these reports. Further, the Act guarantees public reports of contraventions will be investigated when filed by two or more people. The Act also establishes the right of any person suffering loss or damage due to a contravention of the Act to sue for and recover an amount equal to that loss or damage.

SHARED RESPONSIBILITY

Protecting our environment is a complex task that requires the vigilance and cooperation of ordinary citizens, scientific experts, industry officials and governments at all levels. The Environmental Protection and Enhancement Act recognizes that all sectors of society must share responsibility as stewards of the environment.

Individuals, for example, are required to report environmental accidents and to bear the cost of those they cause. Individuals must also clean up unsightly property and assist investigators when necessary.

Because environmental impacts often recognize no boundaries, the Act provides for cooperation and liaison with other jurisdictions. The Minister is empowered to enter into agreements with other governments and to delegate responsibilities to federal government departments and agencies.

The provisions of the Act also support cooperation and coordination between provincial departments and agencies and with local governments. The Act allows for the Minister to delegate responsibilities or transfer administration of provisions of the Act to other provincial government departments and agencies and local authorities. Specific responsibilities may also be delegated to regulatory boards.

SUSTAINABLE DEVELOPMENT

Sustainable development is a central principle of the Environmental Protection and Enhancement Act. The goal of sustainable development is to ensure that utilizing resources and the environment today will not impair prospects for their use by future generations. The means to achieving that goal is through a balanced approach that recognizes the mutual dependence of a healthy environment and a healthy economy.

The protection of the environment is essential to the integrity of ecosystems, human health and the well-being of society. A healthy environment is also essential to maintaining the long-term sustainability of economic development. At the same time, a vibrant economy is needed to maintain our quality of life and to bear the costs of environmental protection and the development of related technologies.

The Act directly supports the principle of sustainable development through the Environmental Assessment and Approval Processes. All major projects and those with potential environmental impacts are subject to careful review, which ensures that environmental protection and economic decisions are integrated in the earliest stages of planning. The requirements for the Environmental Assessment Process are linked to the review of major projects by the Energy Resources Conservation Board and the Natural Resources Conservation Board.

The Act also establishes the Sustainable Development Co-ordinating Council, an interdepartmental government committee that makes recommendations to the Minister regarding sustainable development and protection of the environment.

POLLUTERS PAY

The best way to avoid environmental damage is to prevent it. The Environmental Protection and Enhancement Act strives to do that by requiring projects to undergo careful scrutiny before they are approved. But when prevention is insufficient, the Act is equipped with enough teeth to ensure that polluters pay for environmental damages and subsequent remedial costs that arise from their activities.

The Act also enables the government to recover from polluters the costs of clean ups if the government has to take action. In addition, corporate officers and directors can be held liable for offences of their corporation and public officials can be held liable for offences of those under their direction.

The most serious offences, such as knowingly releasing a harmful substance that causes a significant adverse effect on the environment, can result in the stiffest penalties, of up to \$1 million in fines and two years in jail. There are two lesser levels of offences with correspondingly lower penalties.

Where there is a conviction, the courts may impose other penalties such as:

- ❖ polluters may be ordered by the courts to compensate the government for the cost of remedial or preventive action taken as the result of an offence
- ❖ offenders may be ordered by the courts to pay compensation to an individual for loss or damage arising from a contravention of the Act
- ❖ polluters may be ordered by the courts to pay a fine equal to the financial benefit gained as a result of failing to comply with the province's environmental laws

*CONSULTATION,
COMMUNICATION,
EDUCATION AND
GENERAL
ADMINISTRATION*

The protection of our environment depends on the efforts of all Albertans. Because we share this responsibility, it is critical that communication, consultation and education about the environment be actively promoted. This part of the Act encourages and helps Albertans to participate in decisions affecting the environment. Recognizing the integrated nature of the environment, this section also supports cooperation with other government departments and agencies and governments of other jurisdictions.

The Act places responsibility for administration of the legislation on the Minister and outlines the powers and duties of the Minister.

Public Consultation

One of the Act's central purposes is to increase opportunities for public involvement in all aspects of environmental protection and enhancement. Examples of these opportunities for participation can be found throughout the Act, including the Environmental Assessment Process and Approval Process (Part 2), Environmental Appeal Board (Part 3), Release of Substances (Part 4) and Enforcement (Part 10).

Shared Responsibility

Reflecting the principle of shared responsibility, the Act makes provisions for cooperating and reaching agreements with other levels of government and between government departments and agencies. For example, there is a recognized need for Alberta Environmental Protection to cooperate with Alberta Health. The Act also permits the delegation or transfer of certain administrative responsibilities to other government departments and agencies, local authorities and non-government boards.

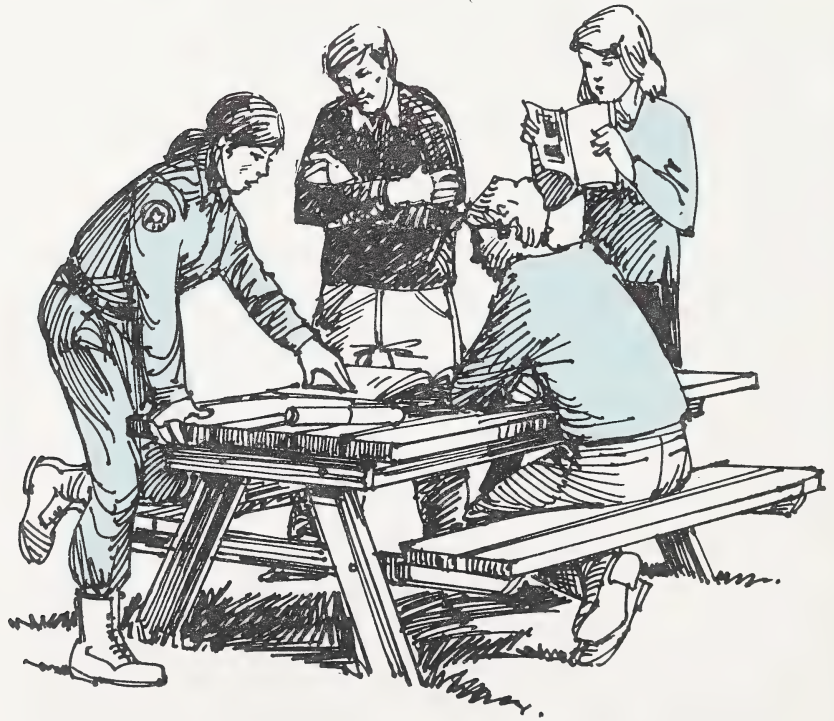
As well, the Act allows the establishment of committees, including Advisory Committees, which report to the Minister on the administration of the Act and on policies and programs related to the environment. The legislation also establishes the Sustainable Development Co-ordinating Council, an interdepartmental committee that makes recommendations to the Minister regarding sustainable development and protection of the environment.

Access to Information

Recognizing the importance of increased access to information, the Act contains a list of information available to the public. This includes information submitted during the Environmental Assessment and Approval Processes. The regulations accompanying the Act provide details on obtaining this information.

Economic Instruments

A new and promising way to reach environmental protection goals is through the use of economic incentives. The Act allows for the development of such market-based approaches as tradeable emission permits and recycling incentives. These types of incentives help protect the environment by means that in some cases can be more efficient and effective than direct rules, regulations and enforcement measures.



*ENVIRONMENTAL
ASSESSMENT PROCESS
AND APPROVAL
PROCESS*

*Environmental
Assessment Process*

The Act establishes a legislated Environmental Assessment Process for Alberta. This process ensures that economic development occurs in an environmentally responsible manner with the opportunity for full public participation.

The Environmental Assessment Process provides a means of reviewing proposed projects to assess their potential impact on the environment. The inclusion in the legislation of the process steps ensures that the review process is clear and consistent, for proponents and the public.

Mandatory projects, such as pulp mills, oil refineries and large dams, which are always subject to the Environmental Assessment Process, are identified in the regulations accompanying the Act. For other projects, the Act provides steps to determine if the assessment process should be applied. It also allows for regulations to identify routine or small projects, which will generally be exempt from the Environmental Assessment Process.

The Environmental Assessment Process begins with the proponent, other government departments, local authorities or others informing Alberta Environmental Protection of a new project. Projects that may warrant further consideration are referred to the Director responsible for environmental assessment. For mandatory projects, an Environmental Impact Assessment (EIA) report is automatically required. For other projects, the Director considers the location, size and nature of the project and other factors and if further consideration is required, the proposal is screened by the Director. Public notice is given that the project is being screened. A screening report, available to the public, is prepared and the Director decides if an EIA report is required.

The project's proponent is responsible for preparing an EIA report in accordance with terms of reference issued by the Director and the requirements of the Act. The public has the opportunity to recommend what should be included in the EIA report. The EIA report generally must include such things as a description of the potential positive and negative environmental, social, economic and cultural impacts of the project. Normally it will also contain plans to mitigate potential adverse impacts and to respond to potential emergencies; information on public consultation programs related to undertaking the project; and an identification of human health issues.

- The EIA report is reviewed to ensure it is complete and suitable for any public hearings where the project is reviewed by the Energy Resources Conservation Board or the Natural Resources Conservation Board.

Public Consultation

There are opportunities for public involvement throughout the Environmental Assessment Process. These include:

- ❖ providing public notice when a proposed project is being screened and when an EIA report is required
- ❖ allowing for public input on proposed projects and into terms of reference of EIA reports
- ❖ ensuring information, including screening and EIA reports, is made publicly available through a central registry

Interjurisdictional Agreements

Because some projects may affect other jurisdictions, the Minister can enter into agreements with other provinces, territories or the Federal Government on the Environmental Assessment Process. This encourages cooperation between governments on environmental issues and ensures that duplication is eliminated or minimized, while reinforcing Alberta's constitutional responsibilities for managing our environment.

The purpose of the Environmental Assessment Process is to:

- ❖ support the goals of environmental protection and sustainable development
- ❖ integrate environmental protection and economic decisions at the earliest stages of planning a project
- ❖ predict the environmental, social, economic and cultural consequences of a proposed project and to assess plans to mitigate any resulting adverse impacts
- ❖ provide for involvement by the public, proponents and government departments and agencies in the review of proposed projects

Approval Process

Approvals are required from Alberta Environmental Protection to ensure proposed projects that could cause an adverse impact on the environment are reviewed. Based on that detailed review, a decision is made as to whether an approval should be issued. When an approval is issued, it contains terms and conditions, specific to that project, needed to protect the environment. This Approval Process ensures a project is environmentally acceptable before a decision is made about whether it should proceed.

The Act allows for a “single window” approach to approvals in which one Director is responsible for coordinating and integrating reviews on the potential air, land and water impacts of a single project. By allowing proponents to obtain one comprehensive approval through one Director, the Act streamlines the Approval Process.

When is an Approval Required?

The Act sets out a broad schedule of activities that could adversely impact the environment. These range from processing natural gas to drilling water wells. The regulations accompanying the Act list those activities from the schedule that require an approval. This list can be revised to address new issues by updating the regulations when required. Similarly, the Act outlines the broad steps of the Approval Process, while the regulations provide the specific rules.

How is an Approval Obtained?

When approvals are necessary, the proponent of the project files a detailed application with Alberta Environmental Protection. Proponents are encouraged and helped to determine the applicability of the Environmental Assessment Process to a proposed project. In cases where an Environmental Impact Assessment (EIA) report is also required for the project, the Director reviewing the application must be satisfied the Environmental Assessment Process has been completed and that any results of related public hearings are taken into consideration.

Based on the review of the completed application, the Director decides whether or not to issue an approval. If an approval is refused, the proponent has the right to appeal the decision to the Environmental Appeal Board. The proponent may also appeal in regards to concerns with the terms and conditions included in the approval.

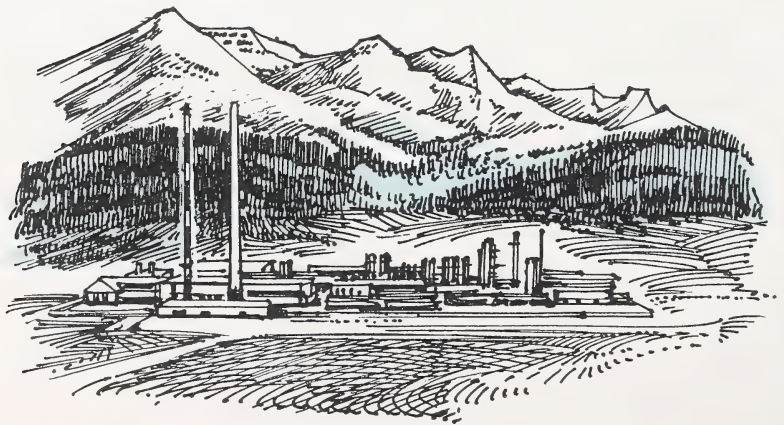
Terms and Conditions

Approvals include any requirements, or terms and conditions, that must be followed. Subsequent changes to the project must first be approved by Alberta Environmental Protection. An approval holder can apply to the Minister for a certificate of variance if a project cannot meet the requirements in the approval or the regulations. The Minister may issue a certificate under the special circumstances outlined in the Act. The Act also allows the Director to amend the terms of an approval in certain circumstances and to suspend or cancel an approval.

Public Involvement and Appeals

The Act provides for public involvement throughout the Approval Process. When a proposal is submitted, the proponent must provide the public with notice of the application. This requirement can be waived by the Director in an emergency or when the activity is considered routine in accordance with the regulations. The other exception occurs when the Director determines sufficient public consultation has already taken place, such as through public hearings conducted by the Energy Resources Conservation Board or Natural Resources Conservation Board or through public consultation during the preparation of an EIA report.

Any person directly affected by a proposed project, the renewal of an existing approval or a change to an existing project may submit a written "statement of concern" to the Director, who will consider such information when reviewing the application. Once the review is completed and a decision reached, the Director must provide notice of the decision to those who submitted statements of concern. In cases where public notice of the application was waived earlier, the Director must give notice of the decision to issue an approval to the public.



To provide a check on the Director's decisions, the Act allows those directly affected who submitted statements of concern to make appeals to the Environmental Appeal Board if they believe their concerns were inadequately addressed. In cases where a decision was made to waive public notice requirements in the filing of an application, those directly affected may initiate an appeal.

Security

To ensure compliance with the terms of an approval, the applicant for an approval or an approval holder may be required to provide financial security as specified in the regulations. If the terms are not followed or the environment is adversely impacted, the security can be used to remedy the problem.

Certificates of Qualification

Individuals whose work could affect the environment may be required to obtain certificates indicating their qualification to carry out such work. The regulations list when a certificate of qualification is needed, such as for operators of municipal water treatment and wastewater treatment plants. These certificates are not intended to duplicate other training and certification programs in Alberta.

Regulations

In addition to the provisions in the regulations noted above, various procedures and requirements are outlined in the regulations. This includes details of the Environmental Assessment Process, including the public register of environmental assessment information, and details of the Approval Process, including application and notice requirements.

*ENVIRONMENTAL
APPEAL BOARD*

The establishment under the Act of the Environmental Appeal Board supports fairness in the decision-making process by providing opportunities for those directly affected to challenge decisions by officials of Alberta Environmental Protection. The Board does not replace or eliminate the right of Albertans to make appeals to the courts on matters of law and jurisdiction.

Board members are appointed by Cabinet. Reflecting the Act's integrated approach to environmental protection, the Board can have a broad list of members with a wide range of expertise. When appeals are to be heard, small panels can be assembled from the Board membership.

Grounds for Appeal

The Act lists the circumstances under which an appeal can be heard. These include situations where approvals are issued or refused, certain Environmental Protection Orders and Enforcement Orders are issued and administrative penalties are charged. The Act also specifies who can make an appeal.

Stay of Decision

In most cases, a decision is not stayed or put on hold during an appeal unless such a request is agreed to by the Minister. For example, an Environmental Protection Order must continue to be complied with unless a request to put the order on hold until the appeal is finished is approved by the Minister.

Report to the Minister

After hearing an appeal, the Board makes recommendations to the Minister, who makes the final decision on whether to support, change or reverse the original decision. The exceptions to this are appeals related to requests for confidentiality of information and administrative penalties. In these cases, the Board makes the final decision. The Minister's decisions and panel reports must be made public.

Costs

To support fairness in the appeal process, the Act allows parties to an appeal to apply to the Board for payment of costs of an appeal. The Board may order any party to pay costs or may pay costs itself. These costs are limited to the preparation and presentation costs of the parties and do not include any compensation.

Regulations

Details regarding the establishment and operation of the Board can be included in the regulations.



RELEASE OF SUBSTANCES

This part of the Act empowers the government to prevent and control the release of substances into the environment. It ensures that unlawful, unauthorized or accidental releases, as well as those exceeding prescribed amounts, are quickly remedied to protect the environment. Part 4 also provides for designating contaminated sites, identifying persons responsible for a site and taking remedial action to clean up sites or restrict their use.

Releases Where There are Approvals or Regulations

Releases refer to the many ways, such as spills, discharges, leaks, spraying, etc., in which contaminants can enter the environment. The controlled release of substances into the environment is principally dealt with in the terms of a project's approval and through regulations accompanying the Act. These regulations usually set limits for authorized releases. Where there is a conflict between regulations and approvals, the more stringent measures will apply.

In the event of an unauthorized release, or where one is suspected, the Director may issue an Environmental Protection Order to prevent an environmental problem or to ensure action is taken to clean up a problem. Preventive measures include investigating the situation, monitoring a release and altering equipment involved in a release.

General Prohibition Against Releases

For situations not governed by regulations or approvals, the Act contains general provisions covering releases that may adversely affect the environment, such as a hazardous substance spilled on a highway.

The Act now imposes a duty to report the release of substances. This ensures the prompt control and clean up of releases.

Those responsible for released substances have a duty to take remedial action. These measures include cleaning up the release, repairing or confining the release, removing or disposing of the substance and restoring the environment to a satisfactory condition.

While the Act emphasizes individual responsibility, it also permits the Director to issue Environmental Protection Orders (EPOs) aimed at preventing and quickly cleaning up releases. As well, the Act provides for emergency EPOs, under which those responsible for releases or the government can take emergency measures to protect human life or health or the environment. If the Act has been contravened, enforcement action may be taken.

Contaminated Sites

In response to growing public concern over contaminated sites, the Act addresses the question of who should be responsible for cleaning up these sites and how the clean ups should be conducted. While the protection of the environment and the affected public is essential, the Act recognizes all parties potentially responsible for contaminated sites must be treated fairly.

Establishing responsibility is complicated when those who caused the contamination are no longer around. The Act gives a broad definition of who may potentially be responsible and lists criteria for the Director to use when establishing who is responsible for each site. This broad definition gives the Director the flexibility needed to deal with the specifics of each site.

The Director may designate a site as contaminated when a substance has caused or may cause a significant adverse impact on the environment. An example of a contaminated site might be an abandoned industrial plant that contains toxic materials. The designation of a contaminated site must be made public and those directly affected can submit a statement of concern outlining suggested remedial actions.



Those responsible for contaminated sites can voluntarily prepare remedial action plans and enter into an agreement for carrying them out with the Director and/or other responsible parties. By entering into such agreements and abiding by their terms, individuals can avoid receiving Environmental Protection Orders (EPOs). When EPOs are issued, they can include such requirements as restoring or securing the site and the affected environment and regulating the site's use or products. The costs of such measures can be apportioned under such an order.

The Minister is empowered to pay compensation to any person who suffers loss or damage as a direct result of the application of this part of the Act.

Regulations

The regulations can provide further detail on releases of substances, including in the following areas:

- ❖ reporting requirements and procedures
- ❖ amounts, concentrations, levels of substances and rates at which substances may be released into the environment
- ❖ use of contaminated sites or use of products from contaminated sites

**CONSERVATION AND
RECLAMATION**

This part of the Act is designed to ensure that land used for industrial purposes is maintained in an environmentally sound manner. It requires operators to undertake conservation measures during the construction and operation of projects and to reclaim the land when the project is finished. Steps taken to achieve this goal include removing, storing and replacing topsoil; contouring disturbed land; and seeding affected areas to prevent erosion and establish vegetation. Conservation and reclamation is not considered complete until an inspector examines the area and issues a reclamation certificate.

The regulations identify the activities requiring approvals and reclamation certificates, including larger scale coal mines, pipelines, transmission lines, oil sands sites, heavy oil sites, sand and gravel pits, quarries and peat operations. Other activities do not require approvals but are subject to operating requirements through regulations and guidelines. A reclamation certificate must be obtained when these activities are finished. Activities regulated in this way include oil well sites and the activities noted above when done on a smaller scale.



If there are deficiencies found when an inspection for a reclamation certificate is done, the inspector may issue an Environmental Protection Order requiring the operator to undertake further work. When this work is completed satisfactorily, the certificate is granted. Orders can also be issued in emergencies and for damages occurring on land next to an activity.

Sometimes a problem emerges after a reclamation certificate is issued. If further work is needed to conserve and reclaim the area and the work relates to matters not apparent when the inspector issued the certificate, an Environmental Protection Order may be issued to the operator. The types of projects where this ongoing responsibility applies will be specified in the regulations accompanying the Act. Factors considered here include whether a detailed approval is required for a type of activity or whether general rules and regulations apply. The time frame specified in the regulations for ongoing responsibility is based on the period over which problems might be expected to arise.

Security

If required by the regulations, an operator must provide financial security. The security is returned if the operator meets all conservation and reclamation requirements either in stages or when a reclamation certificate is issued. If an operator does not meet the requirements, the government can then take necessary action and use the security to cover the costs of reclamation.

Reclamation Council

The Act establishes the Conservation and Reclamation Council, comprised of conservation and reclamation officers appointed by the Minister and local authorities. The regulations outline the Council's responsibilities. These include monitoring conservation and reclamation work on an ongoing basis and conducting inspections required for reclamation certificates.

*GROUNDWATER
AND RELATED
DRILLING*

The intention of this part of the Act is to protect and conserve Alberta's groundwater by ensuring that water wells are drilled properly and safely.

The Act permits the creation of regulations that establish qualifications for drillers and set standards for drilling water wells. The proper drilling of water wells is important because it protects the underground water supply from contamination.

The Director may issue Environmental Protection Orders (EPOs) for problem wells, the drilling of water wells that threaten the groundwater supply and other types of drilling, which are listed in the regulations, that may endanger the environment. These orders are used to prevent or remedy environmental problems. When the environmental impact is more severe, emergency EPOs can be issued or the government may take emergency measures.



POTABLE WATER

This part, and the associated regulations, include provisions for protecting the quality of drinking water by ensuring that water distribution systems and water treatment plants are operated properly. It also prohibits contamination of potable water supplies and enables the incorporation into regulations of water quality standards, such as the Guidelines for Canadian Drinking Water Quality.

The Act imposes a duty on the person responsible for waterworks systems to ensure that concentrations of substances in drinking water do not exceed specifications. Environmental Protection Orders (EPO's) can be issued if the operation of a waterworks system fails to meet standards or the water is unfit for human use. This order may direct the person responsible to make adjustments to the waterworks system. In situations where human health or life is endangered, emergency EPO's can be issued or the government may take emergency measures.

The Act makes it an offence for any person to release a substance into a waterworks system that makes the water unfit to be used as potable water.



HAZARDOUS SUBSTANCES AND PESTICIDES

This part of the Act outlines measures to ensure that hazardous substances and pesticides are used, handled and disposed of in an environmentally safe manner.

The Act generally defines hazardous substances as those that are flammable, corrosive, reactive or toxic. Pesticides are generally defined in the Act as substances used to destroy or repel insects and other pests.

The Act requires that measures be taken to prevent hazardous substances and pesticides from causing environmental damage or contaminating animals, plants, food and liquids. In some cases, Environmental Protection Orders (EPO's) or emergency EPO's can be issued to prevent or remedy problems.

Pesticides

Pesticides are useful chemicals when handled properly but potentially harmful when misused. The approval for using pesticides is generally controlled by federal legislation such as the Pest Control Products Act and the Fertilizer Act. Other aspects are generally regulated by the provinces.

To ensure comprehensive control of pesticides, the Act contains provisions for regulating their sale, distribution, use, application, handling, storage, transportation and disposal. A broad range of regulations provide the detailed requirements including such things as requirements for pesticide applicators, application companies and vendors. Specific approvals may be needed for applying pesticides in areas near water.

Those applying for approval to use or apply pesticides may be required to submit to the Director information on alternative pest control methods.

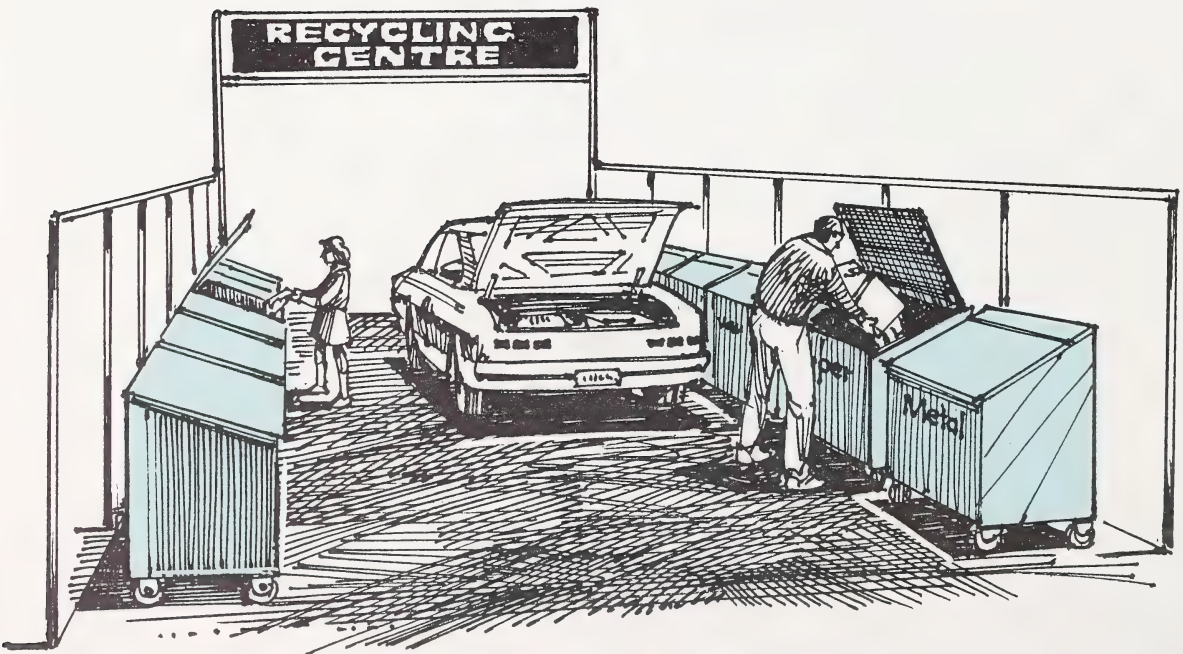
**WASTE
MINIMIZATION,
RECYCLING AND
WASTE MANAGEMENT**

This part of the Act is designed to ensure that waste minimization and recycling measures are considered, encouraged and implemented wherever possible. Incentives to support these measures are provided for. This part also includes provisions to regulate waste disposal and hazardous waste disposal facilities. Municipal waste facility management will continue to be a local responsibility under the Public Health Act.

***Waste Minimization
and Recycling***

The Act provides for the designation of recyclable materials, such as beverage containers and tires, through regulations and the development of recycling programs for those materials. This flexible approach allows new recycling initiatives to be developed over time.

The Act enables surcharges to be collected on designated materials and deposited in recycling funds. Monies from these funds may be used for education, research and incentive programs that support waste minimization and recycling. The funds may be administered by government or by industry with some government control. The Act also allows for regulations to reduce and control packaging and to encourage the reuse and recycling of packaging. As well, it provides for controlling how hazardous wastes are recycled, with details in regulations.



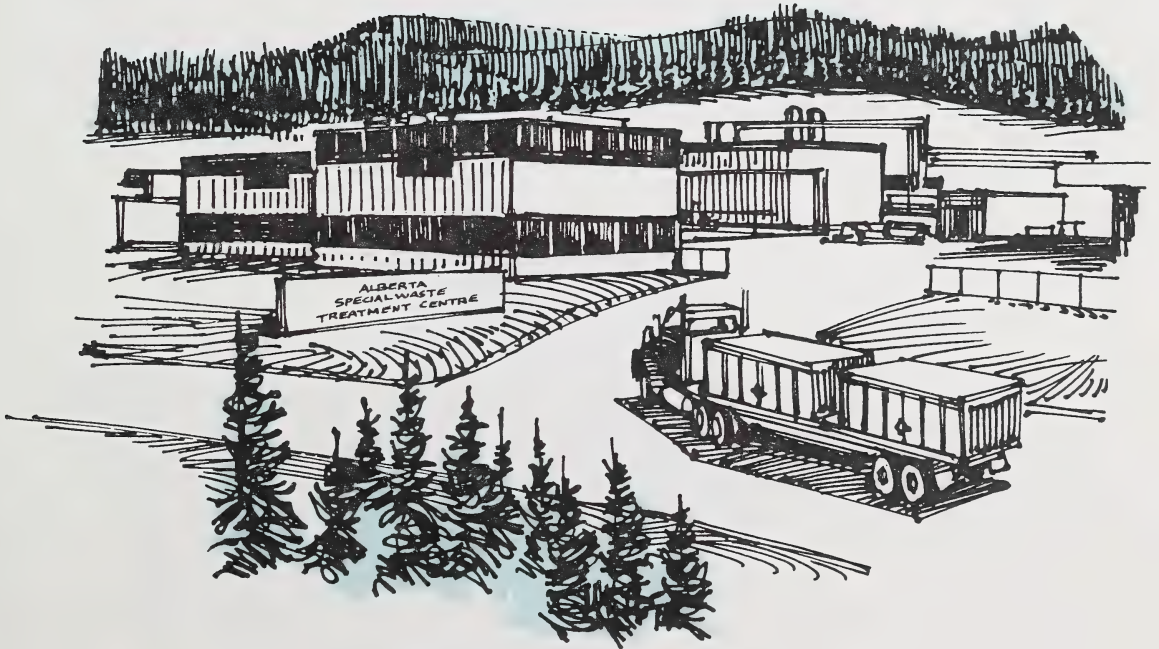
Waste

Under the Act, the term “litter” is replaced by “waste” and is meant to include garbage, paper, sewage and discarded vehicles.

The Act makes it illegal to improperly dispose of waste on public land, highways, land owned by a local authority and property owned by other people. Environmental Protection Orders may be issued where property visible from a highway is deemed unsightly by inspectors named under the Act. These orders can direct the offending person to clean up the area. Details of these orders are included in the regulations.

Hazardous Waste

The Act, and the associated regulations, include provisions for regulating the storage, collection, transportation, treatment and disposal of hazardous wastes. Due to the potential danger of many hazardous wastes, the Act ensures hazardous wastes are tracked from their origins to their final resting places. Under this system, anyone who consigns, transports or receives hazardous wastes must have an identification number.



ENFORCEMENT

While the legislation encourages the prevention and control of environmental problems, timely and effective enforcement measures are also needed to ensure compliance with the Act, regulations and approvals. This part sets out a wide range of administrative and judicial measures such as Enforcement Orders, court orders and prosecution.

Investigations and Inspections

An investigation or inspection is the first step in dealing with apparent contraventions of the Act. The legislation sets out the powers and duties of inspectors and investigators. The information collected from these inspections and investigations enables Alberta Environmental Protection to determine the existence and severity of a contravention and then initiate an appropriate enforcement action.

Reports from the public are an important aid to detecting contraventions. All such reports are taken seriously and, where necessary, investigations are initiated. Further, the Act guarantees public reports of contraventions will be investigated when filed by two or more people.

Enforcement Orders

The Director is empowered to issue Enforcement Orders when the Act has been contravened. These orders can include requirements to shut down or stop an activity, fix a problem, protect or restore the environment and prepare plans for remedial action. In some cases, the Director may order the suspension or cancellation of a project approval.



Failure to comply with an Enforcement Order is considered a contravention of the Act and may lead to prosecution. The Minister may also apply for a court order directing the person to comply with the Enforcement Order. If necessary, the government may undertake the required work and recover the costs from the person responsible.

Civil Cause of Action

The Act establishes the right for any person suffering loss or damage when the Act has been contravened to sue for and recover an amount equal to the loss or damage.

Injunctions

When it appears the Act is or is about to be contravened, the Director may apply for a court injunction directing the person responsible to take or refrain from taking a particular action. Similarly, individuals have the right to apply for injunctions when they have suffered or are about to suffer damage from a contravention.

Recovery of Costs

When there are convictions under the Act, the government is entitled to recover some costs related to investigating the offence as well as the cost of any preventive or remedial actions it has undertaken.

Offences and Penalties

The Act includes three levels of offences with corresponding penalties. These penalties are different for individuals and corporations. If there is a continuing offence, the penalty can apply to each day or part thereof for the duration of the offence.

Generally, the most serious offences are those where a person knowingly commits an environmental offence. An example is knowingly releasing a substance that causes a serious adverse effect on the environment. These types of offences can result in penalties of up to \$1 million and two years in jail.

Most offences under the Act are at the next level, known as strict liability offences. They carry a maximum penalty of \$50,000 for individuals and \$500,000 for corporations. Less serious offences where there is no defence available, known as absolute liability offences, carry a maximum fine of \$250 for individuals and \$1,000 for corporations. An example in this class would be offences related to littering.

In addition, the Act empowers the courts to impose a variety of orders where there has been a conviction. One example would be requiring offenders to take appropriate action to remedy or prevent damage to the environment. The courts may also order the payment of an extra fine equal to the financial benefit gained from the offence.

Liability of Directors, Officers and Public Officials

Under the Act, corporate directors and officials may be charged with offences committed by the corporation. Public officials may also be charged with offences committed by persons acting under their direction.

Administrative Penalties

The Act provides for a new type of penalty called an administrative penalty. These penalties are designed to deal with less serious offences such as a failure to file reports required in a project approval. This approach allows administrative penalties to be imposed without using the courts for such minor offences. Those receiving administrative penalties can appeal to the Environmental Appeal Board.

Key Offences:

- ❖ failing to report a release
- ❖ providing false or misleading information or failing to provide information
- ❖ contravening an approval, a certificate of variance or a certificate of qualification
- ❖ contravening an Enforcement Order or Environmental Protection Order
- ❖ specific prohibitions such as commencing an activity without an approval, permitting the release of certain substances into the environment, failing to report the release of a substance and depositing waste on public land

*MISCELLANEOUS
PROVISIONS*

This part covers general provisions on right of entry and Environmental Protection Orders. The right of entry provisions allow authorized officials to access land in order to carry out work related to administration of the Act.

*Environmental
Protection Orders*

An underlying principle of the Act is to prevent environmental problems. Thus there are provisions throughout the Act for issuing Environmental Protection Orders (EPOs) and emergency EPOs. These orders are intended to prevent environmental problems or, failing that, to ensure action is taken to fix environmental problems. Under an EPO, individuals can be required, for example, to take measures to protect the environment, prepare environmental audits or submit plans on remedial measures.

Failing to comply with an EPO is a contravention of the Act and may lead to prosecution. The Minister may also apply for a court order directing a person to comply with an EPO. If necessary, the government may undertake the required work and charge the cost to the person to whom the order was issued.

*TRANSITIONAL
PROVISIONS*

This part includes the necessary transitional provisions for the Environmental Protection and Enhancement Act. It provides for the repeal of the eight previous acts, which have been consolidated under the new Act. It also specifies changes to other acts, such as the Department of the Environment Act, to make them consistent with this Act. Transitional provisions are used to allow for the orderly transition from legislation that is going to be replaced to new legislation.



<i>January, 1990</i>	Alberta Environment distributes 25,000 copies of the government's vision document, "Alberta's Environment — Toward the 21st Century", which details a commitment to the protection, improvement and wise use of our environment.
<i>January-June, 1990</i>	More than 5,000 Albertans respond by letter to Environment Minister Ralph Klein's invitation to submit their comments, which are then compiled into the document called "Thanks from Alberta's Environment".
<i>June, 1990</i>	A discussion draft of the proposed Environmental Protection and Enhancement Act is made publicly available, accompanied by a guide summarizing the proposed legislation's key areas.
<i>October-December, 1990</i>	The Environmental Legislation Review Panel is established by the Minister and directed to hold public meetings throughout the province, allowing Albertans to express their views on the draft legislation. The Panel travels to 12 locations and receives 151 oral and 198 written submissions.
<i>January, 1991</i>	The Panel's report, which suggests changes in 22 areas of the draft legislation, is presented to the Minister.
<i>June, 1991</i>	A redrafted Act, reflecting a majority of the Panel's recommendations, is introduced in the Legislative Assembly as Bill 53.
<i>September, 1991</i>	A full public review for the regulations accompanying the Act is initiated.
<i>December, 1991</i>	A Task Force, representing industry, the provincial and municipal governments, environmental groups, real estate and banking, and the legal profession, is established to provide recommendations dealing with the clean up and allocation of costs for contaminated sites.
<i>January-April, 1992</i>	Following government review, the proposed Act is redrafted, taking into account public comments on Bill 53 and the draft regulations as well as the recommendations of the Contaminated Sites Liability Issues Task Force.
<i>May, 1992</i>	The proposed legislation is reintroduced in the Legislative Assembly as Bill 23.
<i>June 26, 1992</i>	The Bill receives third reading and Royal Assent.
<i>September 1, 1993</i>	The regulations are approved and the Act is proclaimed and comes into force on September 1, 1993.

Copies of the Act and regulations are available from the Queen's Printer Bookstore:

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Key contacts are listed on a factsheet available from Alberta Environmental Protection



April 1993

ISBN # 0-7732-1197-7

